

Senate File 128 - Introduced

SENATE FILE 128

BY CARLIN

A BILL FOR

1 An Act establishing an education savings grant program for
2 certain pupils attending a nonpublic school, establishing
3 an education savings grant fund, providing an income tax
4 exemption, making appropriations, providing penalties, and
5 including applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8.6, Code 2021, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 17. *Education savings grants.* To adopt
4 rules relating to the administration of and applications
5 for the education savings grant program pursuant to section
6 257.11B, including but not limited to application processing
7 timelines, information required to be submitted by a parent or
8 guardian, and payment and recovery of grant amounts.

9 Sec. 2. NEW SECTION. 257.11B **Education savings grant**
10 **program.**

11 1. *a.* For the school budget year beginning July 1, 2022,
12 and each succeeding school budget year, the following resident
13 pupils who are attending a nonpublic school, as defined
14 in section 285.16, located in this state and who maintain
15 enrollment for the entirety of the required attendance period
16 of the school year shall be eligible to apply for an education
17 savings grant in the manner provided in this section:

18 (1) A pupil eligible to enroll in kindergarten and who is
19 not otherwise ineligible under this section.

20 (2) A pupil eligible to enroll in grade one through
21 grade twelve if the pupil has attended a public school for
22 the equivalent of the two semesters immediately preceding
23 the school budget year for which the education savings grant
24 is requested and who is not otherwise ineligible under this
25 section.

26 (3) A pupil who received an education savings grant for
27 the immediately preceding school budget year, who is eligible
28 to enroll in grade one through grade twelve, and who is not
29 otherwise ineligible under this section.

30 *b.* Education savings grants shall be made available to
31 parents and guardians in the manner authorized under subsection
32 4, paragraph "c", for the payment of qualified grant expenses as
33 provided in this section.

34 *c.* For purposes of this subsection, "*resident*" means the
35 same as defined in section 282.1, subsection 2.

1 2. *a.* (1) By January 31 preceding the school year for
2 which the education savings grant is requested, the parent
3 or guardian of the pupil shall submit an application to the
4 department of management, on application forms developed by
5 the department of management, indicating that the parent or
6 guardian intends to enroll the pupil in a nonpublic school for
7 the entirety of the school year.

8 (2) In addition to such information deemed appropriate by
9 the department of management, the application shall require
10 certification from the nonpublic school of the pupil's
11 enrollment for the following school year.

12 *b.* By March 1 preceding the school year for which the
13 education savings grant is requested, the department of
14 management shall notify the parent or guardian of each pupil
15 approved for the following school year to receive an education
16 savings grant and the amount of the education savings grant for
17 the pupil.

18 *c.* Education savings grants shall only be approved for one
19 school year and applications must be submitted annually for
20 education savings grants in subsequent school years.

21 3. The department of management shall assign each pupil an
22 education savings grant in an amount equal to fifty percent of
23 the regular program state cost per pupil for the same school
24 budget year.

25 4. An education savings grant fund is created in the state
26 treasury under the control of the department of management
27 consisting of moneys appropriated to the department of
28 management for the purpose of providing education savings
29 grants under this section. For the fiscal year commencing July
30 1, 2022, and each succeeding fiscal year, there is appropriated
31 from the general fund of the state to the department of
32 management to be credited to the fund the amount necessary
33 to pay all education savings grants approved for that fiscal
34 year. The director of the department of management has all
35 powers necessary to carry out and effectuate the purposes,

1 objectives, and provisions of this section pertaining to the
2 fund, including the power to do all of the following:

3 *a.* Make and enter into contracts necessary for the
4 administration of the fund.

5 *b.* Procure insurance against any loss in connection with the
6 assets of the fund or require a surety bond.

7 *c.* Contract with a private financial management firm to
8 manage the fund, in collaboration with the treasurer of state,
9 including providing for the disbursement of education savings
10 grants in the form of an electronic debit card or checks that
11 are payable directly from the pupil's account within the fund.

12 *d.* Conduct audits or other review necessary to properly
13 administer the program.

14 *e.* Adopt rules for the administration of the fund and
15 accounts within the fund.

16 5. *a.* For each pupil approved for an education savings
17 grant, the department of management shall establish an account
18 for that pupil in the education savings grant fund. The amount
19 of the pupil's education savings grant shall be deposited
20 into the pupil's account on July 1, and such amount shall
21 be immediately available for the payment of qualified grant
22 expenses incurred by the parent or guardian for the pupil
23 during that fiscal year using the payment method authorized
24 under subsection 4, paragraph "c".

25 *b.* A nonpublic school that accepts payment from a parent or
26 guardian using funds from a pupil's account in the education
27 savings grant fund shall not refund, rebate, or share any
28 portion of such payment with the parent, guardian, or pupil.

29 *c.* Moneys remaining in an eligible pupil's account upon
30 conclusion of the fiscal year shall remain in the eligible
31 pupil's account in the education savings grant fund for the
32 payment of qualified grant expenses in future fiscal years
33 during which the pupil participates in the program or for the
34 payment of higher education costs that are qualified education
35 expenses as provided under subsection 8.

1 6. *a.* For purposes of this section, "*qualified grant*
2 *expenses*" includes tuition and fees at a nonpublic school,
3 textbooks, fees or payments for educational therapies,
4 including tutoring or cognitive skills training, curriculum
5 fees and materials for a course of study for a specific subject
6 matter or grade level, tuition or fees for nonpublic online
7 education programs, education materials and services for pupils
8 with disabilities, including the cost of paraprofessionals
9 and assistants who are trained in accordance with state law,
10 standardized test fees, qualified education expenses, as
11 defined in section 12D.1, excluding room and board expenses,
12 and other expenses incurred by the parent or guardian that
13 are directly related to the education of the pupil at a
14 nonpublic school, including a nonpublic school accredited by
15 an independent accrediting agency approved by the department
16 of education.

17 *b.* "*Qualified grant expenses*" does not include
18 transportation costs for the pupil, the cost of food or
19 refreshments consumed by the pupil, the cost of clothing for
20 the pupil, or the cost of disposable materials, including
21 but not limited to paper, notebooks, pencils, pens, and art
22 supplies.

23 7. *a.* A person who makes a false claim for the purpose
24 of obtaining an education savings grant provided for in this
25 section or who knowingly receives the grant or makes a payment
26 from an account within the education savings grant fund without
27 being legally entitled to do so is guilty of a fraudulent
28 practice under chapter 714. The false claim for an education
29 savings grant or a payment from an account shall be disallowed.
30 The department of management shall also close the pupil's
31 account in the education savings grant fund and transfer any
32 remaining moneys in the account for deposit in the general
33 fund of the state. If the improperly obtained amounts from
34 the grant have been disbursed from the applicable account in
35 the education savings grant fund, the department of management

1 shall recover such amounts from the parent or guardian, or from
2 the pupil for purposes of subsection 8, including by initiating
3 legal proceedings to recover such amounts, if necessary. A
4 parent or guardian, or a pupil for purposes of subsection
5 8, who commits a fraudulent practice under this section is
6 prohibited from participating in the education savings grant
7 program in the future.

8 *b.* If, prior to the end of the required attendance period
9 of the school year, a pupil who receives an education savings
10 grant withdraws from enrollment in the nonpublic school or is
11 expelled, the nonpublic school shall notify the department of
12 management in writing of the pupil's withdrawal or expulsion,
13 and the pupil's parent or guardian shall notify the department
14 of management of the pupil's withdrawal or expulsion from the
15 nonpublic school. A pupil's expulsion from the nonpublic
16 school prior to the end of the required attendance period for
17 the school year shall invalidate the pupil's eligibility for
18 the education savings grant for the school budget year. A
19 pupil's withdrawal from a nonpublic school prior to the end
20 of the required attendance period of the school year shall
21 invalidate the pupil's eligibility for the education savings
22 grant for the school budget year unless the withdrawal is
23 the result of a change in residence of the pupil and the
24 pupil, following written notice by the parent or guardian and
25 certification by the new nonpublic school to the department of
26 management, enrolls in a different nonpublic school in this
27 state for the remainder of the school year.

28 *c.* (1) Upon receipt of a notice of expulsion under
29 paragraph "b", the department of management shall close
30 the pupil's account in the education savings grant fund and
31 transfer any remaining moneys in the account for deposit in
32 the general fund of the state. In addition, if amounts from
33 the grant for the school budget year during which the pupil
34 is expelled have been disbursed from the expelled pupil's
35 account in the education savings grant fund, the department

1 of management shall recover such amounts from the parent or
2 guardian, including by initiating legal proceedings to recover
3 such amounts, if necessary.

4 (2) Upon receipt of a notice of withdrawal under paragraph
5 "b" and a determination that the pupil's withdrawal was not the
6 result of a change in residence, the department of management
7 shall cease disbursements of remaining moneys in the pupil's
8 account in the education savings grant fund and maintain the
9 pupil's account if and until such time that the pupil uses the
10 funds for qualified education expenses under subsection 8.
11 In addition, if amounts from the grant for the school budget
12 year during which the withdrawal occurs have been disbursed
13 from the pupil's account in the education savings grant fund,
14 the department of management shall recover such amounts from
15 the parent or guardian to the extent the amount disbursed
16 exceeds the amount of the grant proportionate to the remaining
17 portion of the school year following the withdrawal, including
18 by initiating legal proceedings to recover such amounts, if
19 necessary.

20 (3) Upon receipt of a notice of withdrawal under paragraph
21 "b" and a determination that the withdrawal was the result of
22 a change in residence but that the pupil did not enroll in
23 a different nonpublic school in this state for the remainder
24 of the school year, the department of management shall cease
25 disbursements of remaining moneys in the pupil's account in
26 the education savings grant fund and maintain the pupil's
27 account if and until such time that the pupil uses the funds
28 for qualified education expenses under subsection 8.

29 (4) If a pupil's eligibility is invalidated under the
30 provisions of paragraph "b", the pupil shall be ineligible for
31 an education savings grant for the following school budget year
32 under subsection 1, paragraph "a", subparagraph (2).

33 8. For each pupil with a positive balance in the pupil's
34 account in the education savings grant fund upon graduation
35 from high school, the department of management shall maintain

1 the account in the fund until the pupil is twenty-five years of
 2 age. Following graduation from high school until the pupil is
 3 twenty-five years of age, moneys in the pupil's account may be
 4 used for qualified education expenses, as defined in section
 5 12D.1, incurred by the pupil while attending an institution
 6 of higher education under the control of the state board of
 7 regents, a community college located in this state, or a
 8 private college or university located in this state. Payments
 9 from a pupil's account for qualified education expenses shall
 10 be made in the same manner as payments for qualified grant
 11 expenses under subsection 5. Moneys in a pupil's account when
 12 the pupil turns twenty-five years of age shall be transferred
 13 by the department of management for deposit in the general fund
 14 of the state.

15 9. This section shall not be construed to authorize the
 16 state or any political subdivision of the state to exercise
 17 authority over any nonpublic school or construed to require a
 18 nonpublic school to modify its academic standards for admission
 19 or educational program in order to receive payment from a
 20 parent or guardian using funds from a pupil's account in the
 21 education savings grant fund. A nonpublic school that accepts
 22 payment from a parent or guardian using funds from a pupil's
 23 account in the education savings grant fund is not an agent
 24 of this state or of a political subdivision of this state.
 25 Rules adopted by the department of management to implement this
 26 section that impose an undue burden on a nonpublic school are
 27 invalid.

28 Sec. 3. Section 422.7, Code 2021, is amended by adding the
 29 following new subsection:

30 NEW SUBSECTION. 48. Subtract, to the extent included, the
 31 amount of an education savings grant under section 257.11B
 32 received by the taxpayer for payment of qualified grant
 33 expenses.

34 Sec. 4. APPLICABILITY. The following applies to school
 35 budget years and fiscal years beginning on or after July 1,

1 2022:

2 The section of this Act enacting section 257.11B.

3 Sec. 5. APPLICABILITY. The following applies to tax years
4 beginning on or after January 1, 2022:

5 The section of this Act enacting section 422.7, subsection
6 48.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill establishes an education savings grant program for
11 certain pupils attending a nonpublic school.

12 The following pupils who attend a nonpublic school in this
13 state and who maintain enrollment for the entirety of the
14 required attendance period of the school year are eligible to
15 apply for an education savings grant: (1) a pupil eligible to
16 enroll in kindergarten; (2) a pupil eligible to enroll in grade
17 1 through grade 12 if the pupil has attended a public school
18 for the equivalent of the two immediately preceding semesters;
19 or (3) a pupil who received an education savings grant for the
20 immediately preceding school budget year and who is eligible
21 to enroll in grade 1 through grade 12. By January 31 preceding
22 the school year for which the education savings grant is
23 requested, the parent or guardian of the pupil requesting to
24 receive an education savings grant must submit an application
25 to the department of management indicating that the parent or
26 guardian intends to enroll the pupil in a nonpublic school for
27 the entirety of the school year.

28 The bill requires that by March 1 preceding the school
29 year for which the education savings grant is requested, the
30 department of management must notify the parent or guardian of
31 each pupil approved for the following school year to receive
32 an education savings grant and the amount of the education
33 savings grant for the pupil. The education savings grant is
34 equal to 50 percent of the regular program state cost per pupil
35 for the same school budget year. Education savings grants

1 must be approved for each school year and applications must be
2 submitted each year.

3 The bill creates an education savings grant fund in
4 the state treasury under the control of the department of
5 management consisting of moneys appropriated to the department
6 of management for the purpose of providing education savings
7 grants. For the fiscal year commencing July 1, 2022, and each
8 succeeding fiscal year, there is appropriated from the general
9 fund of the state to the department of management for deposit
10 in the fund the amount necessary to pay all education savings
11 grants approved for that fiscal year. For each pupil approved
12 for an education savings grant, the department of management
13 must establish an account for that pupil in the education
14 savings grant fund. The amount of the pupil's education
15 savings grant is deposited into the pupil's account on July 1
16 and such amount is available for use by parents and guardians
17 for the payment of qualified grant expenses, as defined in the
18 bill, incurred by the parent or guardian for the pupil during
19 that fiscal year.

20 The bill authorizes the department of management to
21 contract with a private financial management firm to manage
22 the education savings grant fund, in collaboration with the
23 treasurer of state, including providing for the disbursement
24 of education savings grants in the form of an electronic debit
25 card or checks that are payable directly from the pupil's
26 account within the fund.

27 The bill provides that moneys remaining in an eligible
28 pupil's account upon the conclusion of the fiscal year shall
29 remain in the eligible pupil's account in the education savings
30 grant fund for the payment of qualified grant expenses in
31 future fiscal years during which the pupil participates in
32 the program or for higher education costs that are qualified
33 education expenses as authorized in the bill.

34 Under the bill, for each pupil with a positive balance in
35 the pupil's account in the education savings grant fund upon

1 graduation from high school, the department of management is
2 required to maintain the account in the fund until the pupil
3 reaches an age specified in the bill. Until the pupil reaches
4 the age limitation, moneys in the pupil's account may be used
5 by the pupil for qualified education expenses, as defined in
6 Code section 12D.1. Moneys in a pupil's account when the pupil
7 reaches the age limitation are transferred by the department of
8 management for deposit in the general fund of the state.

9 The bill provides that a person who makes a false claim for
10 the purpose of obtaining an education savings grant or who
11 knowingly receives the grant or makes a payment from an account
12 in the education savings grant fund without being legally
13 entitled to do so is guilty of a fraudulent practice and is
14 subject to a criminal penalty. The bill directs the department
15 of management to recover grants and amounts improperly awarded
16 or paid and requires the closure of the pupil's account and
17 transfer of all remaining moneys to the general fund of the
18 state. The bill also establishes requirements and procedures
19 for parents or guardians and for the department of management
20 when a pupil receiving an education savings grant withdraws
21 or is expelled from the nonpublic school prior to the end of
22 the required attendance period of the school year, including
23 requirements for disposition of the pupil's account within the
24 education savings grant fund and recovery of grant funds.

25 The bill provides that an education savings grant received
26 by a taxpayer is not taxable income for purposes of state
27 individual income taxation. This provision of the bill applies
28 to tax years beginning on or after January 1, 2022.

29 The section of the bill enacting the education savings
30 grant program applies to school budget years and fiscal years
31 beginning on or after July 1, 2022.